

Germany (*Hanover*)

COMMERCE AND NAVIGATION

Treaty signed at Berlin May 20, 1840

Senate advice and consent to ratification July 15, 1840

Ratified by the President of the United States July 28, 1840

Ratified by Hanover November 4, 1840

Ratifications exchanged at Berlin November 14, 1840

Entered into force November 14, 1840

Proclaimed by the President of the United States January 2, 1841

*Terminated March 5, 1847, by treaty of June 10, 1846*¹

8 Stat. 552; Treaty Series 153²

The United States of America and His Majesty the King of Hanover, equally animated by the desire of extending as far as possible the commercial relations between, and the exchange of the productions of their respective States, have agreed, with this view, to conclude a Treaty of Commerce and Navigation.

For this purpose, the President of the United States of America has furnished with full-powers, Henry Wheaton, Their Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of Prussia; and His Majesty the King of Hanover has furnished with the like full powers, le Sieur Auguste de Berger, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of Prussia, Lieutenant-General, Knight Grand-Cross of the order of Guelph, the red eagle of Prussia, the order of merit of Oldenburg &c, who after exchanging their said full-powers, found in good and due form, have concluded and signed, subject to ratification, the following articles:

¹ TS 154, *post*, p. 27.

² For a detailed study of this treaty, see 4 Miller 257.

ARTICLE 1

There shall be between the territories of the High Contracting Parties a reciprocal liberty of commerce and navigation.

The inhabitants of their respective states shall mutually have liberty to enter, with or without their ships, and cargoes, the ports, places, waters and rivers of the territories of Each Party wherever foreign commerce is permitted.

They shall be permitted to sojourn and reside in all parts whatsoever of said territories, in order to attend to their affairs, and also to hire and occupy houses and ware-houses, for the purposes of their commerce, provided they submit to the laws as well general as special, relative to the right of residing and trading.

Whilst they conform to the laws and regulations in force, they shall be at liberty to manage themselves their own business in all the territories subject to the jurisdiction of Each Party, in respect to the consignment, and sale of their goods, by wholesale or retail, as with respect to the loading, unloading and sending off their ships, or to employ such agents and brokers as they may deem proper, they being, in all these cases, to be treated as the citizens or subjects of the country in which they reside, it being nevertheless understood that they shall remain subject to the said laws and regulations also in respect to sales by wholesale or retail.

They shall have free access to the tribunals of justice in their litigious affairs on the same terms which are granted by the law and usage of the country to native citizens or subjects, for which purpose they may employ in defence of their rights such advocates, attornies and other agents as they may judge proper.

ARTICLE 2

No higher or other duties shall be imposed in any of the ports of the United States on Hanoverian vessels, than those payable in the same ports by vessels of the United States; nor in the ports of the Kingdom of Hanover on the vessels of the United States than shall be payable in the same ports on Hanoverian vessels.

The privileges secured by the present article to the vessels of the respective High Contracting Parties shall only extend to such as are built within their respective territories, or lawfully condemned as prize of war, or adjudged to be forfeited for a breach of the municipal laws of Either of the Parties, and belonging wholly to their citizens or subjects respectively, and of which the Master, officers and two thirds of the crew shall consist of the citizens or subjects of the Country to which the vessel belongs.

The same duties shall be paid on the importation into the ports of the United States of any articles, the growth, produce or manufacture of the Kingdom of Hanover, or of any other Country belonging to the Germanic Confederation and the Kingdom of Prussia, from whatsoever ports of the

said country the said vessels may depart, whether such importation shall be in vessels of the United States or in Hanoverian vessels; and the same duties shall be paid on the importation into the ports of the Kingdom of Hanover, of any articles, the growth, produce or manufacture of the United States and of every other country of the Continent of America and the West-India islands, from whatsoever ports of the said countries the vessels may depart whether such importation shall be in Hanoverian vessels or the vessels of the United States.

The same duties shall be paid and the same bounties allowed on the exportation of any articles, the growth, produce or manufacture of the Kingdom of Hanover, or of any other country, belonging to the Germanic Confederation and the Kingdom of Prussia, to the United States, whether such exportation shall be in vessels of the United States or in Hanoverian vessels, departing from the ports of Hanover, and the same duties shall be paid and the same bounties allowed on the exportation of any articles, the growth, produce or manufacture of the United States and of every other country on the Continent of America and the West-India islands, to the Kingdom of Hanover, whether such exportation shall be in Hanoverian vessels or in vessels of the United States, departing from the ports of the United States.

ARTICLE 3

No higher or other duties shall be imposed on the importation into the United States of any articles, the growth, produce or manufacture of the Kingdom of Hanover and no higher or other duties shall be imposed on the importation into the Kingdom of Hanover of any articles, the growth, produce or manufacture of the United States, than are or shall be payable on the like articles, being the growth, produce or manufacture of any other foreign country.

No higher or other duties and charges shall be imposed in the United States, on the exportation of any articles to the Kingdom of Hanover, or in Hanover, on the exportation of any articles to the United States, than such as are or shall be payable on the exportation of the like articles to any other foreign country.

No prohibition shall be imposed on the exportation or importation of any articles, the growth, produce or manufacture of the United States, or the Kingdom of Hanover, to or from the ports of said Kingdom or of the said United States, which shall not equally extend to all other nations.

ARTICLE 4

The preceding articles are not applicable to the coasting trade and navigation of the High Contracting Parties which are respectively reserved by Each exclusively to its own citizens or subjects.

ARTICLE 5

No priority or preference shall be given by Either of the Contracting Parties, nor by any company, corporation or agent, acting on their behalf, or under their authority in the purchase of any article of commerce lawfully imported, on account or in reference to the national character of the vessel, whether it be of the one party or of the other in which such article was imported.

ARTICLE 6

The Contracting Parties grant to Each other the liberty of having, Each in the ports of the other, consuls, vice-consuls, agents and commissaries of their own appointment, who shall enjoy the same privileges and powers as those of the most favored nations; but if any of the said consuls, shall carry on trade, they shall be subjected to the same laws and usages to which private individuals of their nation are subjected in the same place.

The consuls, vice-consuls and commercial agents shall have the right, as such, to sit as judges and arbitrators in such differences as may arise between the masters and crews of the vessels belonging to the nation, whose interests are committed to their charge, without the interference of the local authorities, unless the conduct of the crews or of the Captain should disturb the order or tranquillity of the country; or the said consuls, vice-consuls or commercial agents should require their assistance to cause their decisions to be carried into effect or supported.

It is, however, understood, that this species of judgment or arbitration shall not deprive the contending parties of the right they have to resort on their return, to the judicial authority of their own country.

The said consuls, vice-consuls and commercial agents are authorized to require the assistance of the local authorities for the search, arrest and imprisonment of the deserters from the ships of war, and merchant vessels of their Country.

For this purpose they shall apply to the competent tribunals, judges and officers, and shall, in writing, demand said deserters, proving by the exhibition of the registers of the vessels, the muster-rolls of the crews, or by any other official documents, that such individuals formed part of the crews; and on this claim being thus substantiated, the surrender shall not be refused.

Such deserters, when arrested, shall be placed at the disposal of the said consuls, vice-consuls, or commercial agents, and may be confined in the public prisons, at the request and cost of those who shall claim them, in order to be sent to the vessels to which they belong, or to others of the same country. But if not sent back within three months from the day of their arrest, they shall be set at liberty and shall not be again arrested for the same cause. However if the deserter shall be found to have committed any crime or offence, his surrender may be delayed until the tribunal, before which his case shall

be pending, shall have pronounced its sentence, and such sentence shall have been carried into effect.

ARTICLE 7

The citizens or subjects of Each Party shall have power to dispose of their personal property within the jurisdiction of the other, by sale, donation, testament or otherwise.

Their personal representatives, being citizens or subjects of the other Contracting Party, shall succeed to their said personal property, whether by testament or *ab intestato*.

They may take possession thereof, either by themselves or by others acting for them, at their will, and dispose of the same, paying such duties only as the inhabitants of the country wherein the said personal property is situate, shall be subject to pay in like cases.

In case of the absence of the personal representatives, the same care shall be taken of the said property as would be taken of the property of a native in like case, until the lawfull owner may take measures for receiving it.

If any question should arise among several claimants to which of them the said property belongs, the same shall be finally decided by the laws and judges of the country wherein it is situate.

Where, on the decease of any person, holding real estate within the territories of one Party, such real estate would, by the laws of the land descend on a citizen or subject of the other were he not disqualified by alienage, such citizen or subject shall be allowed a reasonable time to sell the same, and to withdraw the proceeds without molestation, and exempt from all duties of *détraction* on the part of the Government of the respective States.

The capitals and effects which the citizens or subjects of the respective parties, in changing their residence, shall be desirous of removing from the place of their domicil, shall likewise be exempt from all duties of *détraction* or emigration on the part of the respective Governments.

ARTICLE 8

The ancient and barbarous right to wrecks of the sea shall be entirely abolished with respect to the property belonging to the citizens or subjects of the Contracting Parties.

When any vessel of Either Party shall be wrecked, stranded or otherwise damaged on the coasts, or within the dominions of the other, their respective citizens or subjects shall receive, as well for themselves as for their vessels and effects, the same assistance which would be due to the inhabitants of the country where the accident happens.

They shall be liable to pay the same charges and dues of Salvage as the said inhabitants would be liable to pay in a like case.

If the operations of repair shall require that the whole or any part of the cargo be unloaded, they shall pay no duties of custom, charges or fees, on the

part which they shall reload and carry away, except as are payable in the like cases by national vessels.

It is nevertheless understood that if, whilst the vessel is under repair, the Cargo shall be unladen, and kept in a place of deposit, destined to receive goods, the duties on which have not been paid, the Cargo shall be liable to the charges and fees lawfully due to the keepers of such warehouses.

ARTICLE 9

The present Treaty shall be in force for the term of twelve years from the date hereof: and further until the end of twelve months after the Government of the United States on the one part or that of Hanover on the other, shall have given notice of its intention of terminating the same.

ARTICLE 10

The present Treaty shall be approved and ratified by the President of the United States of America by and with the advice and consent of Their Senate; and by His Majesty the King of Hanover; and the ratifications thereof shall be exchanged at the city of Berlin, within the space of ten months from this date, or sooner if possible.

In faith whereof the respective Plenipotentiaries have signed the above articles as well in French as in English, and have affixed thereto the Seals of their arms, declaring at the same time that the signature in the two languages shall not hereafter be cited as a precedent, nor in any manner prejudice the Contracting Parties.

Done in quadruplicate at the city of Berlin the twentieth day of May in the year of our Lord, one thousand eight-hundred and forty and the sixty-fourth of the Independence of the United-States of America.

HENRY WHEATON [SEAL]

AUGUSTUS DE BERGER [SEAL]